

ESTTA Tracking number: **ESTTA467874**

Filing date: **04/18/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Wounded Warrior Project, Inc
Granted to Date of previous extension	04/18/2012
Address	4899 Belfort Road Suite 300 Jacksonville, FL 32256 UNITED STATES
Attorney information	Patrick C. Stephenson Kutak Rock LLP 1650 Farnam Street Omaha, NE 68102 UNITED STATES patrick.stephenson@kutakrock.com Phone:402-346-6000

Applicant Information

Application No	85363633	Publication date	12/20/2011
Opposition Filing Date	04/18/2012	Opposition Period Ends	04/18/2012
Applicant	KEYSTONE WOUNDED WARRIORS Kozloff Stoudt 2640 Westview Drive Wyomissing, PA 19610 UNITED STATES		

Goods/Services Affected by Opposition


Class 036. First Use: 2010/10/25 First Use In Commerce: 2010/10/25
All goods and services in the class are opposed, namely: Charitable fundraising to support the needs of severely injured U.S. military personnel


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)


Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	3001447	Application Date	06/23/2004
Registration Date	09/27/2005	Foreign Priority Date	NONE
Word Mark	WOUNDED WARRIOR PROJECT		

Design Mark	
Description of Mark	The mark consists of Soldier carrying another soldier over his shoulder.
Goods/Services	Class 036. First use: First Use: 2003/10/00 First Use In Commerce: 2003/10/00 Charitable fund raising services; namely, to aid Veterans returning from combat and their families


U.S. Registration No.	3841207	Application Date	01/30/2010
Registration Date	08/31/2010	Foreign Priority Date	NONE
Word Mark	WOUNDED WARRIOR PROJECT SOLDIER RIDE		
Design Mark			
Description of Mark	The mark consists of the wording "WOUNDED WARRIOR PROJECT" above the wording "SOLDIER RIDE" with the "D" in RIDE and the "I" in "SOLDIER" combined together, followed by a stylized bicyclist in motion with a series of stars forming a wake behind the bicyclist.		
Goods/Services	Class 036. First use: First Use: 2008/05/28 First Use In Commerce: 2008/05/28 Charitable fund raising services, namely, to aid Veterans returning from combat and their families		

U.S. Registration No.	3878955	Application Date	01/26/2010
Registration Date	11/23/2010	Foreign Priority Date	NONE
Word Mark	PROUD SUPPORTER OF WOUNDED WARRIOR PROJECT		

Design Mark	
Description of Mark	The mark consists of a graphic depiction of a soldier walking on the ground and carrying another soldier with the wording "Proud Supporter of" appearing above the soldiers and the wording "WOUNDED WARRIOR PROJECT" appearing below the ground upon which the soldier is walking.
Goods/Services	Class 036. First use: First Use: 2008/05/28 First Use In Commerce: 2008/05/28 Charitable fund raising services, namely, to aid Veterans returning from combat and their families

U.S. Application No.	85356470	Application Date	06/26/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	WOUNDED WARRIOR PROJECT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2003/07/00 First Use In Commerce: 2003/07/00 Charitable fundraising services		

U.S. Application No.	85293638	Application Date	04/13/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	WOUNDED WARRIOR DISABLED SPORTS PROJECT		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2006/02/08 First Use In Commerce: 2006/02/08 Charitable services, namely, providing disabled veterans with adaptive sports activities equipment and providing instruction in the use of adaptive sports equipment and providing instruction in sports activities

Attachments	78440062#TMSN.jpeg (1 page)(bytes) 77924209#TMSN.jpeg (1 page)(bytes) 77920086#TMSN.jpeg (1 page)(bytes) 85356470#TMSN.jpeg (1 page)(bytes) 85293638#TMSN.jpeg (1 page)(bytes) WWP - Keystone Notice of Opposition.pdf (6 pages)(22780 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Patrick C. Stephenson/
Name	Patrick C. Stephenson
Date	04/18/2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

IN THE MATTER OF APPLICATION SERIAL NO. 85/363,633
PUBLISHED IN THE OFFICIAL GAZETTE ON DECEMBER 20, 2011

WOUNDED WARRIOR PROJECT, INC.,)	
)	OPPOSITION NO. _____
Opposer,)	
)	
vs.)	
)	NOTICE OF OPPOSITION
KEYSTONE WOUNDED WARRIORS,)	
)	
Applicant.)	

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

WOUNDED WARRIOR PROJECT, INC., (“Opposer”) a non-stock corporation organized and existing under the laws of the State of Virginia, with offices located at 4899 Belfort Road, Suite 300, Jacksonville, Florida 32256, believes that it will be damaged by registration of the mark shown in Serial No. 85/363,633 and hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of Trademark Registration No. 3001447 for the mark WOUNDED WARRIOR PROJECT (words plus design) issued on September 25, 2005, for use on charitable fund raising services; namely, to aid veterans returning from combat and their families.

2. Opposer is the owner of Trademark Registration No. 3841207 for the mark WOUNDED WARRIOR PROJECT SOLDIER RIDE (words plus design) issued on August 31, 2010, for use on charitable fund raising services, namely, to aid veterans returning from combat and their families.

3. Opposer is the owner of Trademark Registration No. 3878955 for the mark PROUD SUPPORTER OF WOUNDED WARRIOR PROJECT (words plus design) issued November 23, 2010, for use on charitable fund raising services; namely, to aid veterans returning from combat and their families.

4. Opposer is the owner of pending Application Serial No. 85/356,470 for the mark WOUNDED WARRIOR PROJECT (words only) filed June 26, 2011, for use on charitable fundraising services.

5. Opposer is the owner of pending Application Serial No. 85/293,638 for the mark WOUNDED WARRIOR DISABLED SPORTS PROJECT (words only) filed on April 13, 2011, for use on charitable services, namely, providing disabled veterans with adaptive sports activities equipment and providing instruction in the use of adaptive sports equipment and providing instruction in sports activities.

6. Opposer has continuously used and promoted its WOUNDED WARRIOR PROJECT mark in interstate commerce throughout the United States since 2003 in connection with charitable fundraising services and a variety of programs offered to veterans returning from combat and their families, and Opposer claims common law rights in its WOUNDED WARRIOR PROJECT mark as a result of such use and promotion.

7. Tens of thousands of veterans and caregivers receive support each year through 16 different programs offered under the umbrella of Opposer's WOUNDED WARRIOR PROJECT mark.

8. More than 1.5 million individuals donate money to Opposer through activities conducted under the WOUNDED WARRIOR PROJECT mark. Since its inception, Opposer has

raised more than \$414 million dollars under the WOUNDED WARRIOR PROJECT mark to aid veterans returning from combat and their families.

9. Opposer promotes the WOUNDED WARRIOR PROJECT mark through a variety of media, including direct mail advertising, Internet advertising, direct response television advertising and its website located at www.woundedwarriorproject.org. Opposer has also promotes the WOUNDED WARRIOR PROJECT mark through strategic partnerships with nationally recognized brands, grocery store promotions and over 3,000 annual fundraising events such as sports tournaments, walk/runs, benefit dinners, motorcycle/car events and concerts conducted by WOUNDED WARRIOR PROJECT supporters throughout the United States.

10. As a result of its promotional efforts, the success of its fundraising efforts and the excellence of its veterans assistance programs, Opposer's WOUNDED WARRIOR PROJECT mark has acquired distinctiveness throughout the United States and has become a famous mark.

11. Applicant seeks to register its KEYSTONE WOUNDED WARRIORS mark for use on services that are identical to the services covered under Opposer's WOUNDED WARRIOR PROJECT trademark registrations and pending applications. Pursuant to pending Application Serial No. 85/363,633, filed July 5, 2011, Applicant is seeking to register the mark KEYSTONE WOUNDED WARRIORS for use on charitable fundraising to support the needs of severely injured U.S. military personnel.

12. Opposer first made use of the WOUNDED WARRIOR PROJECT MARK, and the WOUNDED WARRIOR PROJECT mark acquired distinctiveness and became famous throughout the United States, prior to any use of the KEYSTONE WOUNDED WARRIORS mark by Applicant. According to the date of first use alleged by Applicant in its pending Application Serial No. 85/363,633, Applicant did not begin use of the KEYSTONE WOUNDED

WARRIORS mark until November 25, 2010 – seven years after Opposer made first use of its WOUNDED WARRIOR PROJECT mark.

13. If Applicant is permitted to use and register the KEYSTONE WOUNDED WARRIORS mark for the services specified in Application Serial No. 85/363,633, such use and registration is likely to cause confusion and lead to consumer deception as to the source, origin and/or sponsorship of the services promoted and rendered under Applicant's KEYSTONE WOUNDED WARRIORS mark and the services promoted and rendered under Opposer's WOUNDED WARRIOR PROJECT marks, causing damage and injury to Opposer.

14. If Applicant is permitted to use and register the KEYSTONE WOUNDED WARRIORS mark on the services specified in Application Serial No. 85/363,633, such use and registration is likely to dilute and/or damage the value, reputation and/or goodwill associated with Opposer's WOUNDED WARRIOR PROJECT marks, causing damage and injury to Opposer.

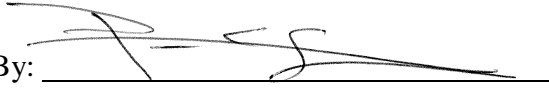
15. If Applicant is granted the registration herein opposed, Applicant would thereby obtain at least a prima facie exclusive right to use the KEYSTONE WOUNDED WARRIORS mark, causing damage and injury to Opposer.

WHEREFORE, Opposer prays that trademark application Serial No. 85/363,633 for the KEYSTONE WOUNDED WARRIORS mark be rejected, and that the registration sought for the KEYSTONE WOUNDED WARRIORS mark be denied and refused.

DATED: April 18, 2012

RESPECTFULLY SUBMITTED,

WOUNDED WARRIOR PROJECT, INC.

By: 

Patrick C. Stephenson

John P. Passarelli

Nicholas N. Clatterbuck

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1650 Farnam Street

Omaha, NE 68102

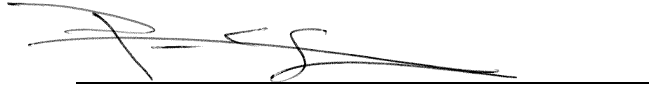
Telephone: (402) 346-6000

Facsimile: (402) 346-1148

Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing NOTICE OF OPPOSITION was served on Applicant's counsel Paula J. Yost, 4930 Sunburst Lane, Charlotte, North Carolina 28213-4244, on this 18th day of April, 2012, by first-class mail, postage prepaid.

A handwritten signature in black ink, appearing to read 'P. Stephenson', is written over a horizontal line.

Patrick C. Stephenson